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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,721	07/31/2000	Kenneth P. Post	LRK-100-C	5571

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EXAMINER

SPISICH, MARK

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 07/16/2003

*AB*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/629,721

Applicant(s)

POST ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) 2-7, 9-11 and 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 8, 13, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 16 June 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 2-7,9-11 and 14-17 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 8. NOTE: It is pointed out that the amendment to claim 1 resulted in this claim not being generic and that claim 1 now is specific to the embodiment of fig 12. The withdrawn claims thus would, upon allowance of claim 1, need to be deleted.

### *Drawings*

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 16 June 2003 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### *Double Patenting*

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,178,584. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the noted patent anticipate the generic claim 18 of the instant application. NOTE: Applicant should note that, in view of the amendment to claim 1, the double-patenting rejection on the first set of claims has been dropped.

***Claim Rejections - 35 USC § 112***

5. Claims 1,8,13 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The amendment of claim 1, with respect to the disclosure, is generally incorrect. Reading original claim 1 as the term "handle" encompassing the tubular portion (230) as well as the handle connector (242) acceptable; however, claim 1 now recites that the handle includes "a **tubular** (emphasis added) first end portion pivotally mountable in the receiver" (claim 1, lines 5-6). The tubular portion of the handle (230) is not the portion which snaps into the receiver (232). The element which actually snaps into the receiver is the handle connector (242) attached to an end of the tubular handle. This connector is more encompassed by the term "means..." (claim 1, lines 9-10). It is further noted that claim 13 includes the same incorrect recitation. Again, it is the handle connector (242) (which is in the form of a "loop" : claim 19) and not the tubular end of the handle which snaps into the receiver (232). Applicant should review the claims for any additional informalities.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonis (USP 5,603,138) in view of UK 406,211. The patent to Bonis discloses a device for cleaning vehicle windows which comprises a plurality of paddles (2a,4a,30,42a) which all have different peripheral shapes, a handle (6) which is removably and pivotally (about pin 10) connected to a surface of the paddles, connecting means formed on the paddles (5a) and the end (9,9a,10) of the handle (6) for releasable and pivotally connecting the handle to the paddles and a plurality of cleaning elements (stated that it may be replaced when dirty) which may be readily removed from the paddles. The patent to Bonis discloses the invention substantially as claimed with the exception of the elastic means. '211 discloses a window cleaner and wherein the cleaning element is removably secured to a paddle (1) by means of an elastic means (16). It would have been obvious to one of ordinary skill to have modified the device of Bonis as such since it is shown to be an art-recognized equivalent means for securing a window cleaning element to a paddle and also because it would thus be easier for the user to remove the cleaning element.

8. Claims 1,8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rubin (USP 2,301,586) in view of Gruber (USP 5,556,470). The patent to Rubin

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discloses a cleaning apparatus (10) comprising a paddle (11), a receiver (32) carried on the paddle, a cleaning element (12) removably affixed to the paddle and a handle (30) having a first end portion pivotally mounted in the receiver. The patent to Rubin discloses the invention substantially as claimed with the exception of the particular type of receiver/handle connection. The patent to Gruber discloses a mechanism for pivotally coupling a plate (1) to a handle (10) and which is comprised of a receiver in the form of a clip (12) which allows a rod-shaped handle connector (13,14) which extending from an end of a tubular handle (15) to snap into as well as pivot in the clip. It would have been obvious to one of ordinary skill to have modified the handle connection of Rubin as such since it would this be much easier to disengage. The one lateral portion (10) of the handle connector defines a means which prevents lateral disengagement of the handle from the receiver. The recitation of "rough textured material" (claim 8) is a relative term which would read on the outer layer of the cleaning element (12) of Rubin and the clip (12) of Gruber reads on the structure of claim 13.

***Allowable Subject Matter***

9. Claim 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. **NOTE:** See below.

10. The following claim drafted by the examiner and considered to distinguish patentably over the art of record in this application, is presented to applicant for consideration:

Claim 1. A cleaning apparatus comprising:

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a paddle;

a receiver carried on the paddle;

a cleaning element removably affixed to the paddle;

a handle having a tubular first end portion and a second user engagable end;

and

MS a handle connector in the ~~portion~~<sup>form</sup> of a closed loop extending from the first end portion of the handle, the handle connector including an end portion adapted to be received in the receiver in a releasable snap connection, the end portion of the handle connector including portions of the closed loop at each end thereof, these portions of the closed loop defining a means for preventing lateral disengagement of the handle from the receiver.

### **Response to Arguments**

11. Applicant's arguments filed 16 June 2003 have been fully considered but they are not persuasive. It is first noted that applicant is willing to file a terminal disclaimer. The examiner reminds applicant that, if claim 18 is deleted in response to this office action, the terminal disclaimer will no longer be required. With regard to the motivation to combine the teachings of Rubin and Gruber, the mere lack of a disclosure of a particular type of handle connection does not preclude the modification thereof in light of the myriad of handle connections (single-axis pivot connection) known in the art such as is taught by Gruber. The side portion (10) of the handle connector of Gruber provides the recited means for preventing lateral disengagement as defined in claim 1. With regard to claim 18, both Bonis as well as UK '211 are both handle implements for cleaning

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windows and which each include a means for removably securing a cleaning element to a paddle. The fact that the patent to Bonis discloses a particular means for securing the cleaning element would not preclude one of ordinary skill to use any known means known in the art to secure a window cleaning element to a paddle. The mere disclosure of a different securing means is itself not a teaching away from the noted combination.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703)



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872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Mark Spisich".

Mark Spisich  
Primary Examiner  
Art Unit 1744

MS  
July 15, 2003